

United States District Court  
For the Northern District of Alabama

*Middle Division*

2017 NOV 17 PM 4:27

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA

Cryst'n J. Curry

Plaintiff

V.

) Civil Action No: \_\_\_\_\_

Westgate Enterprises Incorporated D/B/A )

Popeyes Chicken and Biscuits )

Defendant

4:17-cv-01943-KOB

Rainbow City Fried Chicken (RCFC), Inc. )

Defendant

Mike Cothran

Defendant

**COMPLAINT**

This proceeding is brought to remedy the violation of Plaintiff's rights to be free of discrimination in employment as the result of race, color (African American) , sex, including sexual stereotyping, disability and pregnancy discrimination, and failure to grant family leave and/or accommodations. Plaintiff seeks restitution of all rights, privileges, benefits, and income that she would have received but for Defendant's unlawful and discriminatory practices pursuant to Title VII of the Civil Rights Act of 1964 as amended, including the Pregnancy Discrimination Act of 1978, 42 U.S.C. Section 2000e et. seq.; the Americans With Disabilities Act, 42 U.S.C Section 12101 as amended , including the Americans with Disabilities Act Amendments Act of 2008 (ADAAAA) Public L. 102-166; the Civil Rights Act of 1866, 42 U.S.C. 1981; the Civil Rights Act of 1991, and the Family and Medical Leave Act of 1993, 29 U.S.C. Chapter 28, Sec. 2601, et.seq, as amended;

Rights Act of 1991, and the Family and Medical Leave Act of 1993, 29 U.S.C. Chapter 28, Sec. 2601, et seq, as amended;

Plaintiff Cryst'N J. Curry seeks compensatory and punitive damages against Defendants Westgate Enterprises Inc. d/b/a/a Popeyes Chicken & Biscuits, Rainbow City Fried Chicken (RCFC), Mike Cothrin (owner) and Does 1 through 25, as well as equitable relief to which she may be entitled.

### **Jurisdiction and Venue**

1. This court has jurisdiction pursuant to 42, U.S.C. Section 2000e-5 and 28 U.S.C. U.S.C. Section 1331.
2. Plaintiff timely filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC" concerning her discriminatory discharge and lack of promotional opportunity and is timely filing this action after receiving a Notice of Right to sue from the EEOC. A true copy of that Notice is attached hereto as Exhibit "A".

### **Parties**

3. Plaintiff, Cryst'n J. Curry, is a U.S. citizen over the age of nineteen years who resides in at 700 Forrest Avenue, Gadsden, Al. 35901. Until terminated, she was employed at Rainbow City Fried Chicken (RCFC) in Rainbow City, Alabama.
4. It is believed that Defendant Westgate Enterprises Inc. D/B/A Popeyes Chicken & Biscuits is a Corporation, that has in excess of 2700 fast food restaurants

throughout the U.S. and the world including one's in Alabama and having a place of business at Rainbow City Fried Chicken (RCFC), 3339 Rainbow Drive, Rainbow City, Alabama. It has control over the employment relationships of the employees and business activities at that location.

5. It is believed that Defendant Rainbow City Fried Chicken (RCFC) is a franchise and has joint control with Westgate Enterprises Inc. D/B/A Popeyes Chicken & Biscuits over the material business and employment relationships of the employees and business activities of RCFC
6. It is believed that Mike Cothan<sup>C.C.</sup> is an owner of RCFC and resides in Alabama.
7. Defendant's Does 1 through 25 are yet to be discovered and have a connection to the actions alleged herein.

### **Factual Background**

8. I have been employed by Defendants where I worked first as a Cashier/Crew worker and then as a Shift Manager for RCFC at 3339 Rainbow City Drive, Rainbow City Alabama 35906 from approximately September 2011 until terminated in May 2016.
9. The background from my complaint includes, but should not be limited to the following
10. I am a gay African American woman who was pregnant at the time of termination and had Bell's Palsy and other long standing disabilities.

11. On or about February/March 2016, I informed the store manager that I was pregnant.

12. The Regional Manager, Beth Ezell (White), after learning about my pregnancy, began making jokes about my pregnancy. She also made derogatory remarks about my status as a gay person.

13. I requested and was denied accommodations for my high risk pregnancy.

14. I had a doctor's excuse.

15. I complained to higher ups about the adverse treatment and was denied relief.

16. During March 2016 I was <sup>given false information & unable to skillfully complete</sup> terminated from the ~~Serv Safe Upper Management~~ <sup>the</sup>

CC  
→ Training Program. Non gay heterosexal White women with less experience and less company longevity have been selected to participate in and graduate from the management training program on a continuing basis.

17. I believe that persons protected by the law are under represented in higher level positions including management.

18. I was three months pregnant when discharged on May 19 by Ms. Ezell. I was informed that the reason for discharge was due to my hair color. I had not reported to work with my new hair coloring and would not have done so. It was a hair coloring that had gone bad.

19. I was not given adequate notice of my job expectations.

20. The reason given for my termination was an excuse for firing me.

11. On or about February/March 2016, I informed the store manager that I was pregnant.
12. The Regional Manager, Beth Ezell (White), after learning about my pregnancy, began making jokes about my pregnancy. She also made derogatory remarks about my status as a gay person.
13. I requested and was denied accommodations for my high risk pregnancy.
14. I had a doctor's excuse.
15. I complained to higher ups about the adverse treatment and was denied relief.
16. During March 2016 I was terminated from the Serv Safe Upper Management Training Program. Non gay heterosexal White women with less experience and less company longevity have been selected to participate in and graduate from the management training program on a continuing basis.
17. I believe that persons protected by the law are under represented in higher level positions including management.
18. I was three months pregnant when discharged on May 19 by Ms. Ezell. I was informed that the reason for discharge was due to my hair color. I had not reported to work with my new hair coloring and would not have done so. It was a hair coloring that had gone bad.
19. I was not given adequate notice of my job expectations.
20. The reason given for my termination was an excuse for firing me.

**(Title VII Discrimination)**

19. Plaintiff incorporates by reference the factual allegations in the preceding paragraphs.

20. Defendants discriminated against plaintiff on account of her race, color, sex including sexual stereotyping, disability and pregnancy when they took the following actions including but not limited to, failing to provide equal promotional and other employment opportunities and termination.

21. Defendants have not imposed the same standards and punishment on white and other non-protected employees similarly situated.

22. Defendant's discriminatory decisions violated 42 U.S.C. Section 2000e's prohibitions against discrimination.

23. I have suffered injury in the form of lost wages and benefits, lost career opportunities, emotional distress, mental anguish and other factors as a result of defendant's discriminatory conduct.

**Count II**

**(Section 1981 Discrimination)**

24. I incorporate by reference the factual allegations in the preceding paragraphs.

25. Defendant's discriminatory actions were motivated by my national origin, race, color, sexual stereotyping, disability and pregnancy and in violation of 42 U.S.C. Section 1981's prohibition against such discriminatory conduct.

26. I have suffered injury in the form of lost wages and benefits, lost future earnings and career opportunities, emotional distress and mental anguish and other relief as a result of Defendant's discriminatory actions.

**(Pregnancy, Disability and Lack of Accommodations)**

27. I was pregnant, disabled, - resulting both from my pregnancy and other physical disabilities.

28. I was treated differently than other employees because of my status in those protected categories.

29. I sought and was denied reasonable accommodations.

30. Defendants would not have suffered undue hardship, difficulty or expense had it provided reasonable accommodations.

**Prayer for Relief**

WHEREFORE, the above considered, Plaintiff respectfully requests the Court to:

- a. Enter a declaratory judgment that the discriminatory practices complained of herein are unlawful and violative of applicable law;

- b. Permanently enjoin Defendants, their agents, officers, successors, employees, assigns, attorneys and those acting in concert with them from engaging in any of the unlawful practices, policies, and procedures set forth herein;
- c. Enter a judgment for compensatory and punitive damages in an amount to be decided at trial, including back pay, front pay, fringe benefits, in addition to damages for the violations of her rights and for emotional distress and mental anguish and punitive damages.
- d. Offer plaintiff a position with comparable in description and compensation to my previous job and any promotional opportunity to which I am entitled, including front pay in lieu of such a position.
- e. Enter a judgment for any additional and different relief to which I may be entitled under the laws and rights violated.
- f. Award me the costs of this action and reasonable attorneys' fees including those entitled to under 42 U.S.C. Section 20000e-5(g)(2)(B) (i)

I reserve the right to submit additional arguments and facts.

I request a trial by jury.

I declare under penalty of perjury that the above statements are true and correct.

Dated: November 16, 2017

Isi Cryst'n J. Curry 11/16/17

Filing for myself, individually as plaintiff

Cryst'n J. Curry  
700 Forrest Avenue, Gadsden, Alabama 35901  
256-467-3780



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Jackson Area Office**

Dr. A. H. McCoy Federal Building  
100 W. Capitol Street, Suite 338  
Jackson, MS 39269  
Intake Information Group: 800-669-4000  
Intake Information Group TTY: 800-669-6820  
Jackson Status Line: 866-408-8075  
Jackson Direct Dial: (601) 948-8466  
TTY (601) 948-8469  
FAX (601) 948-8401

August 16, 2017

Cryst'N J. Curry  
700 Forrest Avenue  
Apt. 208  
Gadsden, AL 35901

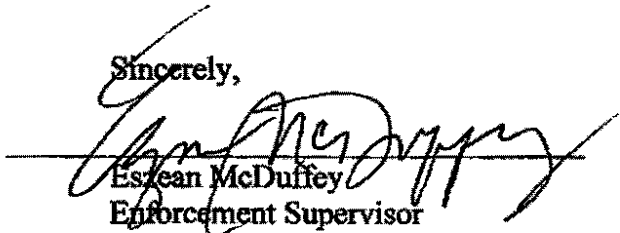
RE: Charge No. 420-2016-03024  
Westgate Enterprises, Inc.

Dear Ms.Curry:

This letter is to inform you that EEOC has completed its final review of the evidence obtained during this investigation. The EEOC is unable to conclude that the information obtained establishes violations of the statutes.

If you wish to pursue your charge further, you have the right to sue the named Respondent in the U. S. District Court within 90 days from the date you receive the Dismissal and Notice of Rights and Information Sheet. Please read these enclosed documents carefully.

Sincerely,

  
Eileen McDuffey  
Enforcement Supervisor

Enclosure: Dismissal and Notice of Rights

EEOC Form 161 (11/16)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Cryst'N J. Curry**  
**700 Forrest Ave. Apt 208**  
**Gadsden, AL 35901**

From: **Jackson Area Office**  
**100 West Capitol Street**  
**Suite 338**  
**Jackson, MS 39269**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**420-2016-03024**

**Eszean S. McDuffey,**  
**Enforcement Supervisor**

**(601) 948-8417**

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

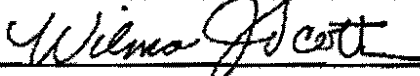
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission



**Wilma Scott,**  
**Director**

**08/16/2017**

Enclosures(s)

(Date Mailed)

cc:

**Joshua B. Sullivan, Esq.**  
**Attorney for WESTGATE ENTERPRISES INC dba**  
**Popeyes Chicken & Biscuits**  
**Knowles & Sullivan, LLC**  
**400 Broad Street, Suite 105**  
**Gadsden, AL 35901**